

III. REMARKS

Status of the Claims

Claims 1-7 and 10-53 remain in the case. Claims 1-7, 10-15, 18-28, and 42-44 are in condition for allowance. Claims 33, 45, 48, and 51 have been amended to more clearly describe that which the Applicant considers to be his invention. No new matter is added by these amendments, nor is it believed that any subject matter has been surrendered.

Telephone Interview

Applicant appreciates the courteous and helpful telephone interview granted by Examiner Henley on January 6, 2004. During the interview Examiner Henley agreed that the currently rejected claims would be allowable if the rejected independent claims were directed to non-topical administration.

Claim Rejections Under 35 U.S.C. § 103

Claims 16, 29, 31-34, 37-41, and 45-53 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Bergamini. Independent claims 33, 45, 48, and 51 have been amended such that these claims are directed to non-topical administration as suggested by the Examiner. Independent claims 37, 40, 46, and 49 are already clearly directed to non-topical administration.

The remaining claims which stand rejected all depend from independent claims directed to non-topical administration, thus Applicant considers all rejected claims in condition for allowance.

Applicant respectfully requests that this rejection be withdrawn.

Claim Objections

The Examiner objects to claims 17, 30, 35, and 36 as depending from a rejected base claim. Applicant submits that based on the claim amendments herein, the Examiner's objections are overcome and requests that the objections be withdrawn.

Applicant Requests Consideration of Supplemental IDS References

Applicant submitted a Supplemental IDS on December 11, 2003. References D3 and D4 had previously been submitted in an IDS submitted January 3, 2003. Applicant apologizes for the undue duplication. Reference B2 is the international publication of the PCT application from which this application arises. Reference C2 is the published search report for Reference B2. Reference B1 is the international publication of a co-pending related application entitled "Multi-Dose Erythropoietin Formulations." Reference C1 is pending U.S. Application No. 10/031,947 which is related to Reference B1. References D1, D2, and D7-D9 are cited by the Applicant in References B1 and C1. The remaining references D5, D6, and D10 were cited in the International Preliminary Examination Report for Reference B1.

Applicant believes the references cited in the Supplemental IDS are cumulative to the references currently of record. Consideration and acknowledgment of these references by the Examiner is respectfully requested.

Allowable Subject Matter

The Examiner indicates that Claims 1-7, 10-15, 18-28, and 42-44 are in condition for allowance. It is believed that based upon the amendments herein, all other claims are now also in condition for allowance.

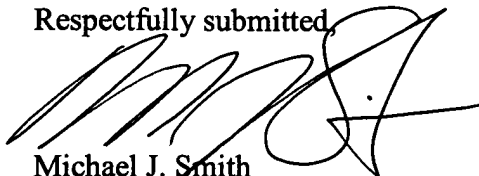
Conclusion

Applicant submits that, based on the Amendments and Remarks herein, the claims are in condition for allowance and such favorable action is respectfully requested. If the Examiner has any questions or comments that might accelerate allowance of these claims, he is invited to contact the undersigned representative at (512) 542-8530.

Appl. No. 10/031,922

Response to Office Action of November 20, 2003

Respectfully submitted,



Michael J. Smith
Reg. No. 51,381

Vinson & Elkins L.L.P.
2300 First City Tower
1001 Fannin Street
Houston, TX 77002-6760
(512) 542-8530

Date: January 16, 2004

419679_1.DOC